

Town of Frederick Board of Trustees



Eric Doering, Mayor

Tony Carey, Mayor Pro Tem
Gerry Pfirsch, Trustee
Sue Wedel, Trustee

Rafer Burnham, Trustee
Amy Schiers, Trustee
Jim Wollack, Trustee

AM 2010-056

To Consider a Moratorium on Medical Marijuana

Agenda Date: May 25, 2010

Attachments: a. Resolution

Fiscal Note: None noted

Bryan Ostler 
Administrative Services Director

Submitted by: Jennifer Simmons 
Planning Director

Approved for Presentation: 
Town Administrator

AV Use Anticipated Projector _____ Laptop _____

Certification of Board Approval:

Town Clerk

Date

Summary Statement:

The Board of Trustees can consider extending the existing moratorium on medical marijuana.

Detail of Issue/Request:

At the December 8, 2009 Board of Trustees regular meeting, the Board was presented draft regulations regarding medical marijuana. Rather than enacting the regulations, the Board may chose to enact a 180 day moratorium. The moratorium will end June 6, 2010.

The State Legislature passed House Bill 10-1284 regarding regulation of medical marijuana and sent it to the Governor for his consideration. While this bill provides new regulation and definitions, there are still some uncertainties as to how it will be implemented.

Extension of the moratorium is requested to provide staff additional time to explore the bill and provide the Board of Trustees with complete information on what can and cannot be done.

Legal/Political Considerations:

The Local Government Land Use Enabling Act (CRS 29-20-101 *et seq.*) grants broad authority to local governments to regulate (including short-term prohibition) land uses within their jurisdictions. As interpreted by the courts, this power must be balanced against individual property rights and vested interests in zoning and land use regulations. Moratoria for limited periods for the purpose of conducting studies under the enabling act, have been determined reasonable exercises of this local government power.

Stringing together two moratoria of 180 days may attract attention from constituents who are eager to submit applications for medical marijuana centers under HB 1284. Nevertheless, under the current Town regulations, there is no right to conduct a commercial medical marijuana business and there are no legally-operating medical marijuana operations in the Town, i.e. there are limited individual property rights currently in play. HB 1284 does not permit legal operation of such a business prior to July 1, 2011 unless that business is compliant with local land use regulations. Extension of the current moratorium to allow the Town to study whether to exercise the "local option" under HB 1284 and/or how to draft regulations that fit with recent state regulation appears to be within the scope of the Enabling Act without unduly burdening individual property rights and vested interests.

Alternatives/Options:

The Board of Trustees may choose to:

1. Do nothing.
2. Extend the moratorium.
3. Direct staff to draft regulations for consideration by the Board.

Financial Considerations:

Not Applicable

Staff Recommendation:

Staff recommends extending the moratorium by approving the attached resolution.